

Meeting Minutes – Meeting 9
DNR New Source Review Retooling Advisory Group
November 13, 2003 – Madison, WI

Advisory Group Participants: Renee L. Bashel, Dept. of Commerce; Jeff Burger, DNR Southeast Region; Lloyd Eagan and Jeff Hanson, DNR Bureau of Air Management; Myron Hafele, Kohler Co.; Howard Hofmeister, Bemis Corp.; Michele Pluta, Alliant Energy; Annabeth Reitter, StoraEnso; Imelda Stamm, DNR Northeast Region; Thomas T. Stocksdale, S.C. Johnson; Mark Thimke, Foley & Lardner. **Absent:** Tom Estock, Quad/Graphics, Inc; Rick Osa, STS Consultants; Jeff Schoepke, Wisconsin Manufacturers & Commerce; Paul White (for Jon Konings), We Energies.

Others: Todd Palmer, DeWitt, Ross & Stevens; Bernie Evans, ERM, Inc.; Mary Jo Kopecky, DNR Division of Air & Waste; Marcia Penner, DNR Legal Services; Darin Harris, DNR Management & Budget (facilitator); Steve Dunn, Caroline Garber, Anne Urbanski (note taker), DNR Bureau of Air Management.

Handouts/Overheads: Available at <http://www.dnr.state.wi.us/org/aw/air/hot/nsr/nov132003/>

Next meeting: Thursday, December 18, 2003 from 9:00 a.m. to 3:00 p.m. Location to be announced.

Discussion

Darin Harris outlined the topics to be covered at this meeting: clarity issues, current version of NR 405 rule draft, minor source linkages and next steps.

Clarity issues: See <http://www.dnr.state.wi.us/org/aw/air/hot/nsr/nov132003/4clarityissues.pdf>. Jeff Hanson said the four issues that need to be clarified include definition of project, “reasonable possibility,” procedure for redistribution PAL emissions, and use of emission factor(s).

1) Definition of Project: The federal rule uses one definition of project, while STAPPA/ALAPCO’s menu of options uses a different definition, which attempts to clarify the federal rule definition. The definition of project comes into play mostly during the applicability test, much less so for PALs or Clean Units. STAPPA/ALAPCO’s purpose in its definition is to look at the totality of steps made in changing an operation as a whole project; the federal rule is vague enough that someone could construe each step as a separate project. Lloyd Eagan asked the group to provide feedback on whether to exclude Routine Maintenance, Repair and Replacement items from the project definition. **Industry members said it would be acceptable to add the STAPPA/ALAPCO exclusion language to the end of the federal rule definition.** Federal rule, along with this addition, is good enough.

2) “Reasonable possibility” appears in source obligation section of federal rule, s. 52.21(r)(6) (see slide 4 above) and in s. NR 405.16 in DNR’s rule markup. Hanson said that if a facility is doing an applicability test for NSR and has a significant net increase, this phrase would apply. As a hypothetical example, suppose Alliant Energy is doing a project and looks at the emission unit potential after the project, which is 200 tons of NO_x per year. The same unit was 100 tpy before the project, so the emissions increase is significant for NO_x. But suppose Michele Pluta says the unit really won’t reach its potential to emit but Alliant does expect some growth. So at the end of 10 years the unit’s emissions would be 150 tons; compare that to 100 tons, that’s a significant increase. But Michele says 20 of those extra 50 tons will be due to demand growth so those 20 tons can be excluded. What’s left is 30 tons which is NOT a significant increase for

NOx, therefore this unit is not a major modification. So Michele does have to document the project but does not have to submit it to DNR under NSR. Jeff Burger noted that the key issue here is that if you're using any test other than the potential-to-past-actual emission test, you have to keep records. Myron Hafele suggested wordsmithing the proposed language to move the S/A language to the end. **Consensus language:** *"The provisions of this section apply to any project that is not a major modification."* Use STAPPA/ALAPCO proposal with additional wording.

3) Procedure for Redistributing a PAL – (see slides 6-7 above). This basically says that when your PAL is going to expire and you don't plan to renew it, you make a proposal to DNR about how to distribute your PAL emissions; DNR has discretion on whether to accept your proposal or propose a different distribution plan. This is in the federal rule. Industry asked what objective criteria DNR would use to reject a facility's distribution plan; Steve Dunn said a distribution plan could be rejected if modeling showed problems with hazardous air pollutants or national air quality standards. **Consensus:** Use the language in items 1 and 2 on slide 6 as written.

4) Emission Factors – (see slide 8 above). DNR is proposing that facilities re-validate their emission factors every five years through automatic stack testing; facilities would do these tests anyway to comply with permit requirements such as RACT, NSPS etc. Marcia Penner said the rule language should be "to establish the PAL pollutant emission rate," *not* emission factor.

Consensus that this section should include these concepts:

- Change wording to "PAL pollutant emission factor"
- Change wording to "under chapter 400 series or other applicable rules"

NR 405 rule draft – see <http://www.dnr.state.wi.us/org/aw/air/HOT/nsr/nov132003/DraftWalkthrough.pdf>.

As noted in the slides, the rule covers applicability test, clean units, pollution control projects, and actuals PALs. DNR also put redesignation options into the rule package to get comments on them. The section on actuals PALs is an alternative approach for determining major New Source Review applicability. In the rule draft, dark shaded areas with white text means that this is something not contained in the federal rule. Grey text highlights areas that the committee talked about but did not change in the federal language. Black is changed, gray is not. Applicability tests (slides 18-23) includes the same baseline period for all pollutants, unless you ask for and get approval from DNR for an alternative baseline period for a particular pollutant(s). The applicability test is used for plant modifications, not for new emissions units or replacement units. DNR is seeking comments on the clarity, consistency and certainty of this rule draft. DNR Air Management staff and legal counsel are now reviewing the rule draft, which must be finalized the week of November 17. **Follow-up: DNR will distribute the green sheet package for the rule draft to the NSR advisory group email list.**

Minor Source linkage process. Harris handed out a flowchart showing a draft DNR staff proposal for three tracks of action toward NSR reform. Track 1 is the current NSR rule development process. Track 2 involves NSR links to minor source rules (in particular NR 406). DNR wants to make sure that if a source is exempt from New Source Review as a major source, it doesn't get pulled into NSR because of our minor source rules. DNR would like this group to meet in December and set up a schedule of meetings on minor source rules and related topics. DNR hopes to request public hearings on minor source rule revisions at the May 2004 Natural Resources Board meeting, the same meeting at which DNR hopes the NRB will adopt the major source NSR rule revisions. Industry asked DNR to distribute Indiana's NSR reform materials;

DNR will provide a link to this information on the Indiana Department of Environmental Quality website; Indiana's rule proposal is basically identical to the federal rule except for some minor tweaks. Wisconsin is the only state that's come up with a detailed proposal that's different than the federal rule. Wisconsin will probably be a test case regarding SIP approval. **Industry asked if DNR had considered submitting a SIP request to withdraw Wisconsin's minor source rules so that the state wouldn't have to get approval for its revised minor source rules. DNR is willing to consider doing that.**

Planning for next meeting – *Date chosen is December 18, 2003 – 9:00 a.m. – 3:00 p.m.*

Planning for meeting:

- Analysis of impact of SIP withdrawal
- Other states' activities
- NR code linkages
- **How to match mass-based system with rate-based system (homework for advisory group)**
- Discuss one-permit program
- Project plan – map out timeline through mid-April 2004 so we can submit rule revision to May 2004 NRB meeting.

Evaluation – Harris asked everyone to fill out a final evaluation form. In particular he wanted feedback from everyone on one thing that helped us do our work and one thing that hindered us from doing our work, as well as comments/suggestions. Eagan thanked the committee members and DNR staff for their hard work the past two months.

C:/data/msword97/NSRretooling/nsr031113minutes.doc

Prepared by Anne Urbanski, DNR

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